

## Connecting to the Courts *Wisconsin Court System*

| home | search | help | site map | links | questions |



# VOLUNTEERS IN THE COURTS *News*

## Spring 2001

- [Appellate Mediation in Milwaukee](#)
- [New Mediation Program in Waukesha](#)
- [Jackson County Receives Teen Court Grant](#)
- [New Teen Court Resources](#)

### Appellate Mediation Gives Litigants a 'Fresh Look'

The court system is well acquainted with probate disputes. When a family member dies, questions often arise about the division of the estate. A suit may be filed in the circuit court, and the party who loses may take the case to the Court of Appeals. But sometimes litigation is not the only—or the best—solution to these issues.

The Appellate Mediation Program, started in 1991 by the court and the Milwaukee Bar Association's Bench/Bar Committee, offers the services of an experienced practitioner who volunteers his/her time to meet with parties in a case to try to reach a settlement.

Appellate mediation can benefit both the parties in a case and the court. For the parties, mediation may offer a faster and less expensive resolution than the court process. In addition, mediation allows for creative solutions that could not be achieved through the traditional appellate process—solutions that result in a mutually agreeable outcome. By working with a mediator, parties may find ways to expand settlement discussions beyond the legal issues. All of these factors can make successful mediation a positive experience for the people involved.

Appellate mediation can also conserve finite judicial resources by reducing the number of cases that come before the Court of Appeals. And even if a mediated case does not settle, the process may help simplify and clarify the issues and result in higher quality briefs and oral arguments, which may ultimately expedite decisions.

"Mediation can avoid a lengthy and bitter family matter that could go public," said District I Court of Appeals Staff Atty. Ann Muchin. Probate is just one type of case in which mediation may be a useful alternative. Other family issues, business litigation, insurance and contract disputes, and personal injury and tort cases are often good candidates for appellate mediation.

In Milwaukee County all non-felony cases, except those involving a self-represented litigant or the termination of parental rights, are eligible for mediation. If a case appears suitable, a letter is sent to both parties explaining how mediation works and informing them that the decision to try mediation is voluntary.

"The court neither encourages nor discourages mediation," Muchin said. The program is simply an alternative that is available at no cost to either party. Other than sending the informational letter

and appointing a mediator, the court is not involved.

If the parties agree to mediation, an order staying preparation of the transcript and record for 30 days is released and a volunteer attorney is appointed. The attorney is selected based on the area of law and is screened to ensure there is no conflict of interest.

The program provides one session with a mediator, but the parties occasionally request an additional session, which is at the attorney's discretion. People with the authority to enter into a settlement agreement must be present. Before the session begins, everyone must sign a confidentiality agreement stipulating that nothing discussed during mediation can be used if the case goes to court.

"The parties get a seasoned practitioner's view of the case and what kinds of solutions can be proposed," Muchin said. "Sometimes this is the first time the parties have sat down face to face with a third party who has a fresh look and no stake in the issue."

About one-third of all mediated cases reach settlement and the appellant voluntarily dismisses the appeal. In post-mediation evaluations, participants speak very highly of the program and the mediators, Muchin said.

There are more than 40 Milwaukee attorneys volunteering their time in the program. They were recruited and trained when the program started.

*For more information about the District I Court of Appeals Mediation Program contact Muchin at (414) 227-4971.*

## **Appellate ADR Pilot Project in District II**

Headquartered in Waukesha, the Court of Appeals, District II, will start an appellate mediation program in July. Like the Milwaukee program, the District II project will use trained volunteer mediators to help parties reach a resolution before the Court of Appeals hears the case. The program aims to reduce the costs and amount of time for the appeal process, allow for creative settlement options, and improve communication among parties and attorneys.

Local attorneys are being recruited to volunteer as mediators. A training program, which will qualify participants for continuing legal education credits, will include sessions on Court of Appeals practice and procedure, methods of alternative dispute resolution (ADR), listening skills, and ethical considerations.

*For more information, contact Court of Appeals Judge Daniel P. Anderson at (262) 521-5230.*

## **Jackson County Teen Court Receives \$38,800**

The Jackson County Circuit Court, under the direction of Chief Judge Robert W. Radcliffe, has received a \$38,808 grant from the Office of Justice Assistance for its teen court program. The Juvenile Justice and Delinquency Prevention Act of 1974 made the funds available. The grant will be used for the coordinator's salary, office equipment, postage, printing, and training for the youth volunteers.

### **Teen Court Resources**

#### **Teen Courts & Restorative Justice:**

While teen courts offer an alternative to traditional juvenile sentencing, restorative justice takes an even broader view—it's

"Judge Radcliffe has been the power behind the whole program. He has been...very hands-on," said Atty. Daniel S. Diehn, who was recently hired as the program coordinator.

The Jackson County Teen Court allows first-time youth offenders ages 12 to 18, who commit certain ordinance violations and admit their guilt, the option of participating in teen court rather than appearing in circuit court for sentencing. In the teen court, trained teens serve as defense and prosecuting attorneys and a jury of peers from throughout Jackson County determines the sentence. If the offender successfully completes the sentence, the citation is dismissed. If the sentence is not completed, the case is transferred to the circuit court.

The goal of the Jackson County Teen Court is to reduce the number of juvenile repeat offenders and to give teens a positive experience with the legal system. "Some offenders have become volunteers at the teen court," Diehn said.

The Jackson County Teen Court has been operating since September 2000. So far, approximately 12 teens have opted to go through the program. There are about 55 youth volunteers from around the county who serve as attorneys, jurors, bailiffs, and clerks during the teen court hearings.

There are now more than 20 teen or youth courts operating in Wisconsin, and three counties—Douglas, Fond du Lac, and Price—are considering developing programs.

*For information about the Jackson County Teen Court, contact Diehn at (715) 284-0284. For more information about teen courts in Wisconsin, with links to resources and information on how to start a program, visit [Teen Courts in Wisconsin](#).*

This page last updated: December 18, 2003

an alternative philosophy for addressing crime. Restorative justice sees crime as a violation of people and relationships, instead of an act against the state.

Therefore, instead of answering crime with punishment, it aims to repair the damage to people and relationships by involving victims and stakeholders (the community) in the process.

A recent publication by the National Youth Court Center entitled *The Role of Restorative Justice in Teen Courts: A Preliminary Look* shows how teen courts can be shaped by restorative justice principles. It recommends ways to focus teen court procedures and policies on harm instead of law breaking and repair instead of punishment. The report also emphasizes the importance of community building—for offenders this might mean peer or adult mentoring and meaningful community service projects as components of their sentences, and for volunteers it might include training related to local community issues and involvement.

The publication is the work of a national focus group that was convened by the National Youth Court Center in 2000 to look at the issue, and included Dane County Juvenile Court Administrator James Moeser.

The Role of Restorative Justice in Teen Courts *is available online at [www.youthcourt.net/article1.pdf](http://www.youthcourt.net/article1.pdf) or by calling (859) 244-8215.*

#### **Teen Court Conference in Stevens**

**Point:** People of all ages who are interested or involved in teen courts are invited to attend the Wisconsin Teen Court Association's (WTCA) First Annual Conference on Nov. 1. Sessions will cover topics such as funding, starting a program, issues faced by established programs, how restorative justice practices can be applied to teen courts, and more. For youth, workshops will focus on developing leadership skills and teamwork.

The conference will be held at the Holiday Inn Convention and Expo Center in

## Volunteers in the Courts News - Spring 2001

Stevens Point. Registration materials will be mailed in June. The cost is \$25 for adults and \$15 for students.

*For more information, contact WTCA  
President Nancy Livingston at (715)  
479-3749 or by e-mail at  
[nancy.livingston@ces.uwex.edu](mailto:nancy.livingston@ces.uwex.edu).*